

UNITED STATES DISTRICT COURT
District of Maine

CITY OF BANGOR,)	
)	
Plaintiff,)	
)	
vs.)	Civil No. 02-183-B-S
)	
CITIZENS COMMUNICATIONS)	
COMPANY,)	
Defendant/Third-Party)	
Plaintiff,)	
vs.)	
)	
BARRETT PAVING MATERIALS, INC.,)	
et al.,)	
Third-party Defendants)	

ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE

The United States Magistrate Judge filed with the Court on March 11, 2004 her Recommended Decision (Docket #292). Third-Party Defendant Honeywell International, Inc., filed its objection to the Recommended Decision on March 22, 2004 (Docket #297) and Third-Party Defendant Barrett Paving Materials, Inc. filed its response/objection on March 23, 2004 (Docket #317). On March 29, 2004 Defendant and Third-Party Plaintiff Citizens Communications Company filed its objection (Docket #319) and on March 30, 2004 Third-Party Defendant United States Army Corps of Engineers filed its objections (Docket # 320). On April 15, 2004, Third-Party Defendants Barrett Paving Materials, Inc.

filed its response to Defendant Citizens Communications' objections (Docket #331). Third-Party Defendant United States Army Corps of Engineers filed its response to Citizens Communications Company's objections on April 23, 2004 (Docket #335). Defendant and Third-Party Plaintiff Citizens Communications Company filed its reply in support of its objections on May 4, 2004 (Docket #355). I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, and determine that no further proceeding is necessary.¹

1. It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is hereby AFFIRMED.

The Court GRANTS the United States Army Corps of Engineers' Motion for Partial Summary Judgment on the Pleadings (Docket # 207) and enters Judgment against Citizens Communications Company's third-party claims against the Corps that seek contribution and declaratory relief pursuant to CERCLA.

The Court GRANTS the United States Army Corps of Engineers' Rule 12(b)(1) Motion to Dismiss (Docket # 218) and DISMISSES all third-party common law claims

¹ The Court is aware that Honeywell International, Inc. and Barrett Paving Materials, Inc. are also requesting relief (Docket #297 and #317) as part of this Order. The Court declines to do so in this Order and requests that separate motions be filed.

and cross-claims filed against the United States
Army Corps of Engineers.

/s/ George Z. Singal
Chief U.S. District Judge

Dated this 7th day of May 2004.

BANGOR, CITY OF

represented by **W. SCOTT LASETER**
MCKENNA, LONG & ALDRIDGE
303 PEACHTREE STREET, NE
SUITE 5300
ATLANTA, GA 30308
(404) 527-4000
Email: slaseter@mckennalong.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

WILLIAM B. DEVOE
EATON PEABODY
P. O. BOX 1210
BANGOR, ME 4402-1210
947-0111
Email: wdevoe@eatonpeabody.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

P. ANDREW HAMILTON
EATON PEABODY
P. O. BOX 1210
BANGOR, ME 4402-1210
947-0111
Email: ahamilton@eatonpeabody.com

**CITIZENS COMMUNICATIONS
COMPANY**

JAY C. JOHNSON
MAYER, BROWN, ROWE & MAW
1909 K STREET, N.W.
WASHINGTON, DC 20006-1101

202-263-3000

Email:

jcjohnson@mayerbrownrowe.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

MARTHA C. GAYTHWAITE

FRIEDMAN, GAYTHWAITE, WOLF
& LEAVITT

SIX CITY CENTER

P. O. BOX 4726

PORTLAND, ME 4112-4726

761-0900

Email: mgaythwaite@fgwl-law.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

BRUCE W. HEPLER

FRIEDMAN, GAYTHWAITE, WOLF
& LEAVITT

SIX CITY CENTER

P. O. BOX 4726

PORTLAND, ME 4112-4726

(207) 761-0900

Email: bhepler@fgwl-law.com

ATTORNEY TO BE NOTICED

JOHN S. HAHN

MAYER, BROWN, ROWE & MAW
1909 K STREET, N.W.

WASHINGTON, DC 20006-1101

(202) 263-3000

Email: jhahn@mayerbrownrowe.com

JULIE ANNA POTTS

MAYER, BROWN, ROWE & MAW
1909 K STREET, N.W.

**BARRETT PAVING MATERIALS
INC**

WASHINGTON, DC 20006-1101
202/263-3370
JOHN P. MCVEIGH
PRETI, FLAHERTY, BELIVEAU,
PACHIOS & HALEY, LLC
PO BOX 9546
PORTLAND, ME 04112-9546
represented by 791-3000
Fax : 791-3111
Email: jmcveigh@preti.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

DAVID B. VAN SLYKE
PRETI, FLAHERTY, BELIVEAU,
PACHIOS & HALEY, LLC
ONE CITY CENTER
PO BOX 9546
PORTLAND, ME 04101-9546
791-3000
Email: dvanslyke@preti.com
ATTORNEY TO BE NOTICED

**UNITED STATES ARMY CORPS
OF ENGINEERS**

JOHN H. DE YAMPERT, JR.
U.S. DEPARTMENT OF JUSTICE
TORTS BRANCH, CIVIL DIVISION
PO BOX 14271
WASHINGTON, DC 20044-4271
(202) 616-4022
Email: john.deyampert@usdoj.gov
LEAD ATTORNEY

STEPHEN E. CROWLEY
U.S. DEPARTMENT OF JUSTICE
ENVIRONMENTAL & NATURAL
RESOURCES DIVISION
ENVIRONMENTAL DEFENSE
SECTION

P.O. BOX 23986
WASHINGTON, DC 20026-3986
202-514-0165
Email: stephen.crowley@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

MICHELLE T. DELEMARRE
U.S. DEPARTMENT OF JUSTICE
P.O. BOX 14271
WASHINGTON, DC 20044-4271
(202) 616-4037
Email: michelle.delemarre@usdoj.gov
ATTORNEY TO BE NOTICED

DEAD RIVER COMPANY

CHARLES A. HARVEY, JR.
HARVEY & FRANK
TWO CITY CENTER
P.O. BOX 126
PORTLAND, ME 4112
207-775-1300
Email: harvey@harveyfrank.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

represented by

ROBERT S. FRANK
HARVEY & FRANK
TWO CITY CENTER
P.O. BOX 126
PORTLAND, ME 4112
207-775-1300
Email: frank@harveyfrank.com
ATTORNEY TO BE NOTICED

**HONEYWELL INTERNATIONAL
INC**

FRANCIS G. KELLEHER
GOODWIN, PROCTOR & HOAR
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 2109-2881
617-570-1000
Email: fkelleher@goodwinprocter.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

represented by

UGI UTILITIES INC

GREGORY A. BIBLER
GOODWIN PROCTOR LLP
EXCHANGE PLACE
BOSTON, MA 02109
(617) 570-1000
Email: gbibler@goodwinprocter.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

SEAN MAHONEY
VERRILL & DANA
1 PORTLAND SQUARE
P.O. BOX 586
PORTLAND, ME 04112
(207) 774-4000
Email: smahoney@verrilldana.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ROBERT L. BRENNAN
GOODWIN PROCTOR LLP
EXCHANGE PLACE
BOSTON, MA 02109
(617) 570-1000
Email: rbrennan@goodwinprocter.com
ATTORNEY TO BE NOTICED

DOUGLAS A. GRAUEL
NELSON, KINDER, MOSSEAU &
SATURLEY, P.C.
99 MIDDLE STREET
represented by MANCHESTER, NH 03101
603-647-1800
Email: dgrauel@nkms.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

JAY VARON
FOLEY & LARDNER
3000 K STREET NORTHWEST

WASHINGTON, DC 20007
(202) 672-5300
Email: jvaron@foleylaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

BEAZER EAST INC

E. TUPPER KINDER
NELSON, KINDER, MOSSEAU &
SATURLEY, P.C.
99 MIDDLE STREET
MANCHESTER, NH 03101
(603) 647-1800

JEFFREY A. THALER
BERNSTEIN, SHUR, SAWYER, &
NELSON
100 MIDDLE STREET
P.O. BOX 9729
represented by PORTLAND, ME 4104-5029
207-774-1200
Email: jthaler@bssn.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

**CENTERPOINT ENERGY
RESOURCES CORP**

CHARLES T. WEHLAND
JONES, DAY
77 WEST WACKER DRIVE
SUITE 3500
represented by CHICAGO, IL 60601-1692
312-782-3939
Email: ctwehland@jonesday.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

DAVID S. SHERMAN, JR
DRUMMOND, WOODSUM &
MACMAHON
245 COMMERCIAL ST.
P.O. BOX 9781
PORTLAND, ME 04104

207-772-1941
Fax : 207-772-3627
Email: dshermanecf@dwmlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ALBERT D. STURTEVANT
JONES, DAY
77 WEST WACKER DRIVE
SUITE 3500
CHICAGO, IL 60601-1692
312-782-3939
Email: adsturtevant@jonesday.com
ATTORNEY TO BE NOTICED

LAURA M. EARL
JONES, DAY
77 WEST WACKER DRIVE
SUITE 3500
CHICAGO, IL 60601-1692
312-782-3939
Email: learl@jonesday.com
ATTORNEY TO BE NOTICED

ROBINSON SPEIRS, JR

KEVIN M. CUDDY
CUDDY & LANHAM
470 EVERGREEN WOODS
BANGOR, ME 4401
represented by (207) 942-2898
Email: kmc@cuddylanham.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

JULIE ANN MACMANNIS

KEVIN M. CUDDY
(See above for address)
represented by *LEAD ATTORNEY*
ATTORNEY TO BE NOTICED

NANCY S DAWSON

KEVIN M. CUDDY
(See above for address)
represented by *LEAD ATTORNEY*

ATTORNEY TO BE NOTICED

ELIZABETH H SPEIRS

KEVIN M. CUDDY
(See above for address)
represented by *LEAD ATTORNEY*
ATTORNEY TO BE NOTICED

MARY S PRICE

KEVIN M. CUDDY
(See above for address)
represented by *LEAD ATTORNEY*
ATTORNEY TO BE NOTICED

ROBINSON SPEIRS

KEVIN M. CUDDY
(See above for address)
represented by *LEAD ATTORNEY*
ATTORNEY TO BE NOTICED